



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

December 6, 2011

Frank Tiegs
Lewis & Clark Ranch LLC
c/o Tim Tippet
PO Box 3110
Pasco WA 99302-3110

RE: Water Right Change Application No. CS4-00879sb31 (BENT-11-01)

In accordance with RCW 90.80.080 the Department of Ecology (Ecology) has reviewed the Record of Decision (ROD), Report of Examination (ROE), and all comments, protests, objections and other relevant information submitted by the Benton County Water Conservancy Board (the Board) for the above referenced application for change.

Ecology has **modified** the decision of the Board and the proposed change/transfer of water right is **approved** under the following conditions:

Summary of Ecology's Final Order

MAXIMUM CFS 86.1	MAXIMUM GPM	MAXIMUM AC-FT/YR 14,961.1	TYPE OF USE, PERIOD OF USE Irrigation of up to 5370 acres from February 1 thru November 30		
SOURCE Yakima River			TRIBUTARY OF (IF SURFACE WATER) Columbia River		
1) Govt. Lot 6 2) Govt. Lot 5		TOWNSHIP 10 N	RANGE 27 EWM	WRIA 37	COUNTY Benton
AT A POINTS LOCATED:					
1) 1750 feet north and 200 feet west from the south quarter corner of Section 3, within Government Lot 6 of Section 3, T. 10 N., R. 27 E.W.M.					
2) 200 feet south and 2500 feet west from the east quarter corner of Section 9, within Government Lot 5 of Section 9, T. 10 N., R. 27 E.W.M.					

FILE COPY



LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD

Those areas previously authorized within the CFO and described as follows:

Parcel A: A strip of land 300 feet in width, situated in Sections 9 and 10, T. 10 N., R. 27 E.W.M., the boundary being described as follows: Beginning at the southwest corner of said Section 10; thence N 89°41'43" E along the south line of said Section 10, 363.51 feet to the true point of beginning; thence N 64°19'18" W 405.44 feet to a point of the east line of said Section 9; thence continuing N 64°19'18" W 117.89 feet; thence N 52°13'34" W 589.31 feet; thence N 24°14'39" W 300.4 feet; thence N 04°25'24" W 501.52 feet; thence N 23°56'40" W 437.9 feet; thence N 51°56'15" W 343.74 feet; thence N 75°49'40" W 1231.55 feet to the approximate highwater line of the easterly bank of the Yakima River; thence N 15°15'55" E along said highwater line 300.04 feet; thence S 75°49'40" E 1289.29 feet; thence S 51°56'15" E 481.99 feet; thence S 23°56'40" E 564.28 feet; thence S 04°25'24" E 500.71 feet; thence S 24°14'39" E 173.24 feet; thence S 52°13'34" E 411.8 feet to a point on the east line of said Section 9; thence continuing S 52°13'34" E 70.98 feet; thence S 64°19'18" E 1107.1 feet to a point on the south line of said Section 10; thence S 89°41'43" W along the south line of said Section 10, 684.96 feet to the true point of beginning.

Parcel B: Section 15; that part of Section 16 lying southeasterly of the Yakima River, Section 21, EXCEPT the SW¼SW¼ thereof; Section 22; ALL in T. 10 N., R. 27 E.W.M.

Parcel C: Those portions of Section 23, T. 10 N., R. 27 E.W.M., described as follows: The S½SW¼NW¼; the NW¼SW¼; the S½SW¼; and that part of the S½SE¼ lying westerly of the Columbia Irrigation District right-of-way; EXCEPTING therefrom the north 1000.42 feet of that part lying between the easterly line of the county road known as Harrington Road, and the westerly line of said canal right-of-way.

Parcel D: A portion of the SW¼SW¼ of Section 25, T. 10 N., R. 27 E.W.M., described as follows: Beginning at a common section corner of Sections 25, 26, 35, and 36; thence easterly along the common section line between Sections 25 and 36, 1320 feet; thence northwesterly in a straight line to a point on the common section line between Sections 25 and 26, which point is 660 feet northerly of the point of beginning when measured along said section line; thence southerly along said section line 660 feet to the point of beginning.

Parcel E: The following land lying within T. 10 N., R. 27 E.W.M.: All of Section 26 EXCEPTING therefrom the east 600 feet of the north 2700 feet. All of Section 27. That part of Section 28 lying northerly of the right-of-way of the Union Pacific Railroad, EXCEPTING therefrom that part lying within the W½W½ of said section. That part of the NE¼ of Section 33 lying northeasterly of the right-of-way of the Union Pacific Railroad. That part of Section 34 lying northerly and westerly of the right-of-way of Rupert Road. All of Section 35. The west 1650 feet of Section 36.

Parcel F: The NE¼ of Section 2, T. 9 N., R. 27 E.W.M., and that portion of the S½ of Section 2, T. 9 N., R. 27 E.W.M. lying northeasterly of the northerly right-of-way of the Union Pacific Railroad, EXCEPT that portion of the SE¼ lying southeasterly of State Sign Route 244. EXCEPTING FROM ALL THE FOREGOING PARCELS, any rights-of-way of public roads.

AND the following additional lands, all located within T. 10 N., R. 27 E.W.M.;

That portion of Section 17 located south of the Yakima River;

That portion of Section 19 located south of the Yakima River;

That portion of Section 20 located south and east of the Yakima River;

That portion of the W ½ W ½ of Section 28 which lies north of the Union Pacific Rail Road.

The NW ¼ of Section 29, and those portions of the E 1/2 and E ½ SW ¼ of Section 29 which lie north of the Union Pacific Rail Road;

That portion of the E ½ of Section 30 that is located north of the Yakima River;

That portion of the NE ¼ NE ¼ of Section 31 which lies north of the Yakima River.

PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE,
DEVELOPMENT SCHEDULE					
BEGIN PROJECT BY THIS DATE:		COMPLETE PROJECT BY THIS DATE:		WATER TO PUT TO FULL USE BY THIS DATE:	
Immediately		December 31, 2014		December 31, 2015	

Ecology has **MODIFIED** the decision of the Board as follows:

- 1) The Water Board's Decision has been modified as noted in the table above.
- 2) The title of Recommended Provisions for the Water Board's Provisions section in their ROE is STRICKEN, and REPLACED with the title: Provisions.
- 3) Provision number one (1.) within the provisions section of the Water Board's ROE is STRICKEN.
- 4) The following provision is ADDED to the Provisions section in the Water boards ROE:
 - a) All diversion shall cease when the flow of the Yakima River falls below 700 cubic feet per second as measured at the point of diversion.

YOUR RIGHT TO APPEAL

You have a right to appeal this decision to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this decision. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within 30 days of the date of receipt of this decision:

- File your appeal and a copy of this decision with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this decision on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

This Decision may be appealed pursuant to RCW 34.05.514(3), RCW 90.03.210(2), and Pretrial Order No. 12 entered in *State of Washington, Department of Ecology v. James Acquavella, et al.*, Yakima County Superior Court No. 77-2-01484-5 (the general adjudication of surface water rights in the Yakima River Basin). The person to whom this Decision is issued, if he or she wishes to file an appeal, must file the notice of appeal with the Yakima County Superior Court **within thirty (30) days of receipt of this Decision**. Appeals must be filed with the Superior Court Clerk's Office, Yakima County Superior Court, 128 North 2nd Street, Yakima WA 98901, RE: Yakima River Adjudication. Appeals must be served in accordance with Pretrial Order No. 12, Section III ("Appeals Procedures").

The content of the notice of appeal must conform to RCW 34.05.546. Specifically, the notice of appeal must include:

- The name and mailing address of the appellant;
- Name and address of the appellant's attorney, if any;
- The name and address of the Department of Ecology;
- The specific application number of the decision being appealed;
- A copy of the decision;
- A brief explanation of Ecology's decision;
- Identification of persons who were parties in any adjudicative proceedings that led to Ecology's decision;
- Facts that demonstrate the appellant is entitled to obtain judicial review;
- The appellant's reasons for believing that relief should be granted; and
- A request for relief, specifying the type and extent of relief requested.

The "parties of record" who must be served with copies of the notice of appeal under RCW 34.05.542(3) are limited to the applicant of the decision subject to appeal, Ecology and the Office of the Attorney General.

All others receiving notice of this Decision, who wish to file an appeal, must file the appeal with the Yakima County Superior Court within **thirty (30) days of the date the Order was mailed**. The appeal must be filed in the same manner as described above.



Mark Kemner, Section Manager
Water Resources Program/CRO

MK:JK:gg/111206

Enclosures: Construction Notice
Water Measuring Requirements and Form 1

Certified Mail: 7007 2560 9535 6039

cc: Janet Rajala, Department of Ecology, ERO
Darryll Olsen, Benton County Water Conservancy Board
Philip Rigdon, Director, Natural Resources Division, Yakama Nation